

JOHN GARTH AND OTHERS (John & Jane Does)  
1515 MARKET STREET  
SUITE 1014  
OAKLAND, CA 94607  
PHONE/FAX: 510- 893-1483

Plaintiffs

E-filing

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FILED  
FEB 18 2011  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

JOHN GARTH AND OTHERS (John & Jane Does)

Plaintiffs,

vs.

JOHN TENNANT MEMORIAL-EPISCOPAL SENIOR  
COMMUNITIES (JTM-ESC),  
AND VINCENT CHEUNG AND THE OAK CENTER  
TOWERS OFFICE STAFF,  
AND GUARDSMARK SECURITY AND STAFF  
AND HOUSING URBAN DEVELOPMENT,  
AND THE RENT PROGRAM

Defendants.

11-00748<sup>DMR</sup>

Case No. \_\_\_\_\_

COMPLAINT

DEMAND FOR JURY TRIAL

CHAMBERS

1. **Jurisdiction.** This court has jurisdiction over this complaint because it arises under the laws of the United States of America.
2. **Venue.** Venue is appropriate in this court because all of the defendants reside in this district and a substantial amount of the acts and omissions giving rise to this lawsuit occurred in this district.
3. **Intradistrict Assignment.** This lawsuit should be assigned to the San Francisco Division of this court because a substantial part of the events or omissions which give rise to this lawsuit occurred in Alameda County.
4. Plaintiffs John Garth and Others (John & Jane Does) are being subjected to continued harassment, invasion of privacy, mail tampering, illegal eviction threats, threatening behavior, slander and erroneous statements by staff and employees of JTM-ESC, Oak Center Towers and Guardsmark Security working at the JTM-ESC location, Oak Center Towers Located at 1515 Market Street, Oakland, California 94607, for a period of 5 years or more.

5. Plaintiffs John Garth and Others (John & Jane Does) contend, they are not enjoying a decent quality of life due to the continued harassment and invasion of privacy by defendants, including U.S mail tampering and the willful intent to divert and interfere with the flow of interstate commerce.
6. Plaintiffs state, on or about February 2, 2011, the most recent incident of harassment and diverting the mail began, with "stuffing" an unmailed envelope in plaintiffs mailbox. Plaintiffs are protected from mail tampering under Federal Regulation Code Title 39.[39 C.F.R. § CH.1 266.2, 266.3 (2003)].
7. Plaintiffs charge that JTM-ESC employee Vincent Cheung, his staff and Guardsmark Security and their staff, continue to harass and invade the privacy of said plaintiffs. It cannot be doubted that a person's home door being closed is evident of the "intimate activity associated with the 'sanctity of a man's home and the privacies of life,'" which to protect citizens, the Fourth Amendment is designed [486 U.S. 35, 51].
8. Plaintiffs charge, that the use of "Rule 34" and it's enforcement, is contrary to civil rights and every humans' basic human rights. As a citizen of the United States of America, The Fourth Amendment states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."
9. Plaintiffs further charge that the lease does not diminish "expectation of privacy" as a civil right of all American Citizens' in their homes [486 U.S. 35, 50].
10. Plaintiffs ask that this court rule on the constitutionality of "Rule 34" of the tenants rule and regulations used by JTM-ESC/Oak Center Towers and enforcement carried by Vincent Cheung, his staff and Guardsmark Security personnel and prosecuted through the judicial system of the United States of America.
11. JTM-ESC (John Tennant Memorial-Episcopal Senior Communities) a housing management business entity doing business within the boundaries of the United States and its territories and licensed to conduct business with agencies of the United States Government.
12. Due to the magnitude of pre-discovery projections on the potential errors made in the defendants enforcement of "Rule 34" over the past 30 years, plaintiffs seek a total monetary award for ongoing and continued harassment and invasion of privacy by defendants.
13. Plaintiffs charge "Rule 34" totally circumvents the U.S. Constitution and the Federal rules on discrimination and equal opportunity. Which states that no citizen of the United States and it's territories shall be discriminated basic his/her race creed color sex religion age national origin social standing or political views.
14. Plaintiffs charge that the defendants have used "Rule 34" over a period of 30 years to undermine the U.S. Constitution and the rights of the plaintiffs and others.

15. Plaintiffs charge that the defendants knew that "Rule 34" violated application for doing business with any U.S. Government agency.

16. Plaintiffs further charge that the defendants lease agreement is null and void when "Rule 34" is attached, as the lease "Rule 34", seeks to diminish "expectation of privacy" that is a civil right. [486 U.S. 35, 50], [486 U.S. 35,51 ]

**Prayer for relief**

17. Plaintiffs seek a ruling from this court on points:

- a. The constitutionality of "Rule 34"; a copy herein attached as exhibit to complaint.
- b. The validity of the defendants lease agreement. Set it aside return all monies to their rightful owners and/or put into a trustee account administered by an independent auditor for directed dispersal under court rules.
- c. Order defendants to refrain from any further use of this "Rule 34" until as such time the court has ruled on the same "Rule 34" constitutionality.
- d. Order all defendants to immediately stop harassing, stop invading privacy, stop any and all retaliation and assaultative behavior towards the plaintiffs, their visitors, their representatives, lawyers, advocates and anyone associated with the plaintiffs and in this action before this court.

18. Plaintiffs asks the court to allow whatever judgment is deemed fair for both the plaintiffs and defendants.

19. Plaintiffs ask the court to order defendants to pay all court costs, court fees, court payments and legal fees of any kind, including process serving, filing, mailing, and all attorney fees and other additional court costs and fees that may be incurred by plaintiffs.

20. Plaintiffs seek a favorable ruling of this court on the maximum allowable punishment for the harassment, invasion of privacy, the negligence in the implementation of "Rule 34", the publicly published derogatory, slanderous and verbal assaults by the defendants and their agents.

21. Plaintiffs demand a jury trial on all issues.

22. Plaintiffs seek a monetary award starting at \$55,000,000.00 for civil invasion of privacy and harassment.

23. Plaintiffs ask the court to enjoin defendants from ever bringing up the matter of "Rule 34" as it reads, relinquishing "Rule 34" altogether and all additional relief to which the plaintiff is entitled.

24. Plaintiffs acknowledge the above civil complaint statements to be true.



Plaintiffs John Garth

Plaintiffs:

John Garth and Others (John & Jane Does)  
1515 Market Street  
Suite 1014  
Oakland, CA 94607  
PHONE/FAX: 510-893-1483

Defendants:

1A. Mr. Vincent Cheung  
Resident Manager  
Oak Center Towers  
1515 Market Street, Office  
Oakland, CA 94607

1B. JOHN TENNANT MEMORIAL-EPISCOPAL SENIOR COMMUNITIES  
(JTM-ESC) REGIONAL OFFICE:  
Diane Claytor, Executive Assistant  
Episcopal Senior Communities Foundation  
2185 N. California Blvd., Suite 575  
Walnut Creek, CA 94596  
Telephone: 925-956-7400 / Telephone: 925-956-7447 / Fax: 925-407-0060  
Email: dclaytor@jtm-esc.org

1C. MOSS ADAMS, LLP, SAN FRANCISCO OFFICE  
One California Street, Fourth Floor  
San Francisco, CA 94111  
RE: JOHN TENNANT MEMORIAL-EPISCOPAL SENIOR COMMUNITIES  
Phone: 415-956-1500  
Fax: 415-956-4149

2A. GUARDSMARK, EXCELLENCE IN SECURITY SOLUTIONS  
Mr. A. Tovitz, Esquire  
Rockefeller Center Headquarters  
10 Rockefeller Plaza  
New York, NY 10020-1903  
(212) 765-8226

AND

2B. LOCAL BUSINESS LOCATED AT: OAKLAND, CA  
GUARDSMARK, EXCELLENCE IN SECURITY SOLUTIONS  
Mr. A. Tovitz, Esquire  
100 Hegenberger Road  
Suite 130  
Oakland, CA 94621-1477  
(510) 562-7606

3A. HOUSING AND URBAN DEVELOPMENT (HUD) REGIONAL OFFICE, ADMINISTRATORS  
AND STAFF:


HUD - U.S. Department of Housing and Urban Development  
Ophelia Basgal, Regional Administrator  
Dept. of Housing and Urban Development  
600 Harrison Street, 3rd Floor  
San Francisco, CA 94107-1300  
Phone: (415) 489-6400  
Email: Customer Service  
Fax: (415) 489-6419  
TTY: (415) 489-6735  
TTY: (415) 489-6771

Jurisdiction: San Francisco, Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Sonoma,  
Solano, Santa Cruz, San Benito, Monterey, Del Norte, Humbolt, Mendocino and Lake Counties

AND

3B. THE RENT PROGRAM

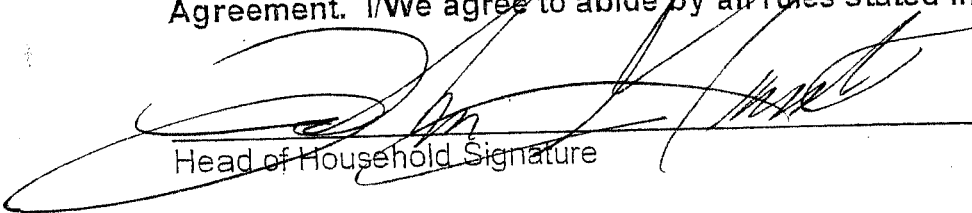
S. Rogan,  
Deputy Director  
The Rent Program  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612  
(510) 238-3501  
[www.oaklandnet.com](http://www.oaklandnet.com)

27. **Pets:** OCT is a pet friendly environment. Pets are not allowed on the property or in an apartment without the written permission of **Management**. Only certain pets are acceptable in accordance with the HUD (Department of Housing and Urban Development) approved Pet Rules, such as four-legged, fur bearing animals and service animals. Service animals to assist Residents and visitors are allowed on the property. Prior to allowing a pet on the property, the Resident must submit a Pet Application and Pet Interview must be scheduled. A pet deposit of \$250.00 is due after receiving approval from **Management** for a pet and fulfilling and signing the Pet Agreement, Lease Attachment #5.
28. **Recertification of Income:** Each year every Resident's financial information is reviewed and recertified to comply with requirements of HUD and Tax Credit. All Residents are required to provide information on all sources of income and assets. Out-of-pocket medical expense verification is optional for the Resident. **Residents must comply with the recertification process on time or risk losing their rental subsidy.**
29. **Security Deposit:** All Residents are required to pay a security deposit equal to one month's Total Tenant Payment or \$50.00, whichever is greater. The deposit will be refunded upon move out if no rent is owed, the apartment is left in a safe and clean condition, and proper notice to move was provided to **Management**.
30. **Security Procedures:** For safety reasons, **Management** strongly suggests that apartment doors remain locked at all times, and each visitor's identity should be checked prior to opening the door. Residents are prohibited from installing different or additional locks on apartment doors. Residents should never give a copy of an apartment key to anyone without prior written permission from **Management**. **Management** will provide necessary duplicate keys for a small fee. Residents should not allow any other persons access into the building except their own guests/visitors.
31. **Smoking:** Smoking is not allowed in any enclosed areas, e.g., multi-purpose room, laundry rooms, lobby and other common areas, etc. Residents may only smoke outside of the building or in their apartment.
32. **Soliciting:** No outside soliciting is allowed on the premises. This includes posting signs from windows and apartments with balconies.
33. **Storage:** No objectionable household property may be stored on the patio/balcony areas, for those apartments with such. Household property may not be stored outside the unit in the hallways.
-  34. **Visitors/Guests:** Each visitor/guest is required to sign in on the Visitor Log at the Administrative Office. Visitors are welcome as long as they do not disturb the health and well being of other Residents. Visitors/guests are defined as any person not on the lease, application or Form HUD-50059. It is the Resident's responsibility to inform

**Management** of any prospective overnight guests and the length of time they will be visiting. Residents are responsible for all actions of their guests visitors while on the property and must accompany any guest at all times when outside their unit. Our **visiting hours is from 7:00 a.m. to 11:00 p.m.** Overnight guests may stay on an occasional basis not to exceed 36 cumulative days in any 12-month period. Residents must limit their guests to no more than two (2) persons at a time. An adult must accompany all visitors under the age of 16 at all times. Unescorted persons are subject to arrest for trespassing and/or loitering pursuant to the California Penal Code.

35. Oak Center Towers reserves the right to modify any of the foregoing rules and/or implement new rules as may be necessary to insure the safety and cleanliness of Oak Center Towers and to guarantee the right of all residents to quiet enjoyment of the premises. These House Rules and subsequent modifications shall, at all time, be subordinate to applicable law, HUD regulations and the lease agreements.


By signing this form, I/We hereby agree that we have read and understand all information covered by the House Rules, which are an attachment to the Lease Agreement. I/We agree to abide by all rules stated in this agreement:

  
Head of Household Signature

5/13/08  
Date Signed

\_\_\_\_\_  
Co-Resident/Spouse Signature

\_\_\_\_\_  
Date Signed

  
Oak Center Towers Representative Oak Center Towers Signature

5/13/08  
Date Signed